

1 A bill to be entitled
 2 An act relating to criminal offenses involving tombs
 3 and memorials; amending s. 872.02, F.S.; creating and
 4 revising definitions; making technical changes;
 5 prohibiting the excavation, exposition, movement,
 6 removal, or other disturbance of the contents of a
 7 tomb or memorial; providing criminal penalties;
 8 providing exceptions to the prohibition against
 9 disturbance of the contents of a tomb or memorial for
 10 ceteries exempted from certain regulation; providing
 11 an effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Section 872.02, Florida Statutes, is amended to
 16 read:

17 872.02 Injuring or removing tomb or memorial ~~monument~~;
 18 disturbing contents of ~~grave or~~ tomb; penalties; exceptions.—

19 (1) For purposes of this section, the term:

20 (a) "Exempt cemetery" means a cemetery that is exempt from
 21 regulation pursuant to s. 497.260(1).

22 (b) "Legally authorized person" has the same meaning
 23 provided in s. 497.005.

24 (c) "Memorial" means a structure or thing placed or
 25 designed for a memorial of the dead. The term includes a

26 monument or gravestone.

27 (d) "Operator" means an owner, officer, employee, or agent.

28 (e) "Tomb" includes a grave space, mausoleum, columbarium,
 29 or belowground crypt, as those terms are defined in s. 497.005,
 30 and also includes a burial mound or an earthen or shell monument
 31 containing human skeletal remains or associated burial
 32 artifacts.

33 (2) A person commits a felony of the third degree,
 34 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 35 if the person ~~who~~ willfully and knowingly:

36 (a) Destroys, mutilates, defaces, injures, or removes:

37 1. A ~~any~~ tomb or memorial; ~~monument, gravestone, burial~~
 38 mound, earthen or shell monument containing human skeletal
 39 remains or associated burial artifacts, or other structure or
 40 thing placed or designed for a memorial of the dead, or

41 2. A ~~any~~ fence, railing, curb, or other thing intended
 42 for:

43 a. The protection or ornamentation of a ~~any~~ tomb or
 44 memorial; ~~monument, gravestone, burial mound, earthen or shell~~
 45 monument containing human skeletal remains or associated burial
 46 artifacts, or other structure before mentioned, or

47 b. An ~~for any~~ enclosure for the burial of the dead. ~~or~~
 48 willfully

49 (b) Destroys, mutilates, removes, cuts, breaks, or injures
 50 a ~~any~~ tree, shrub, or plant placed or ~~being~~ within an ~~any~~ such

51 enclosure for the burial of the dead, ~~commits a felony of the~~
 52 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~
 53 ~~or s. 775.084.~~

54 (3)-(2) A person who willfully and knowingly excavates,
 55 exposes, moves, removes, or otherwise disturbs the contents of a
 56 tomb ~~or grave~~ commits a felony of the second degree, punishable
 57 as provided in s. 775.082, s. 775.083, or s. 775.084.

58 (4)-(3) This section shall not apply to:

59 (a) A ~~any~~ person acting under the direction or authority of
 60 the Division of Historical Resources of the Department of State,
 61 to cemeteries operating under chapter 497, or to a ~~any~~ person
 62 otherwise authorized by law to commit an act ~~remove or disturb a~~
 63 ~~tomb, monument, gravestone, burial mound, or similar structure,~~
 64 ~~or its contents,~~ as described in subsection (2)-(1) or subsection
 65 (3).

66 (b) An operator of an exempt cemetery who is conducting
 67 ordinary maintenance, if such maintenance does not relocate a
 68 memorial, tomb, or the contents of a tomb to another plot or
 69 site.

70 (c) An operator of an exempt cemetery who relocates a
 71 memorial, a tomb, or the contents of a tomb to another plot or
 72 site if:

73 1. Before the relocation, the operator obtains written
 74 authorization for the relocation from a legally authorized
 75 person or a court order authorizing the relocation;

76 2. A natural disaster causes damage to the exempt
 77 cemetery which necessitates the relocation; or

78 3. More than 75 years have elapsed since the interment,
 79 entombment, or inurnment at the exempt cemetery and the operator
 80 of the exempt cemetery publishes a public notice, once a week
 81 for 4 consecutive weeks, in a newspaper of general circulation
 82 within the county in which the exempt cemetery is located.

83 a. The public notice must contain the name of the exempt
 84 cemetery; the name, address, and telephone number of the
 85 representative of the exempt cemetery with whom written
 86 objections may be filed; the reason and necessity for the
 87 relocation; the name of the deceased person interred, entombed,
 88 or inurned; the date of initial interment, entombment, or
 89 inurnment; the proposed site of relocation; and the proposed
 90 date of relocation. The proposed date of relocation may not be
 91 less than 30 days from the last date of publication.

92 b. If a written objection to the relocation:

93 (I) Is not received from a legally authorized person
 94 within 30 days after the last date of publication of the public
 95 notice, the exempt cemetery may proceed with the relocation.

96 (II) Is received from a legally authorized person, a
 97 public hearing shall be held before the city council if the
 98 exempt cemetery is located in a municipality or before the
 99 applicable county commission if the exempt cemetery is not
 100 located within a municipality. Interested parties shall have the

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101 opportunity to be heard at the hearing in person or by counsel
102 and to introduce testimony. The council or commission shall
103 determine whether to grant or deny the request for the
104 relocation. If granted, the exempt cemetery may proceed with the
105 relocation.

106 ~~(4) For purposes of this section, the term "tomb" includes~~
107 ~~any mausoleum, columbarium, or belowground crypt.~~

108 Section 2. This act shall take effect October 1, 2017.